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Fax Cover Sheet

Date: 11 Jan 2005

To: Mr. Jankovitz (reg. no. 42, 690)	From: Shefali D Patel
Application/Control Number: 09/828,010	Art Unit: 2621
Fax No.: 610-407-0701	Phone No.: 703-306-4182
Voice No.: (716) 477-4653	Return Fax No.: (703) 872-9306
Re:	CC:

☐ **Urgent** ☒ **For Review** ☐ **For Comment** ☐ **For Reply** ☐ **Per Your Request**

Comments:

Number of pages ⁷ including this page

STATEMENT OF CONFIDENTIALITY

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Interview Summary	Application No.	Applicant(s)	
	09/828,010	PATTON ET AL.	
	Examiner	Art Unit	
	Shefali D Patel	2621	

All participants (applicant, applicant's representative, PTO personnel):

(1) Shefali D Patel. (3) _____.

(2) Mr. Jack Jankovitz (Reg. No. 42, 690). (4) _____.

Date of Interview: 11 January 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: 1 and 4.

Identification of prior art discussed: none.

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


 Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

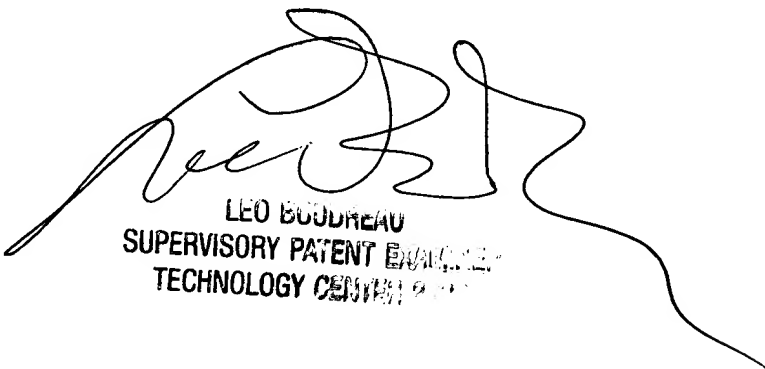
Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Claims filed on November 3, 2004 were discussed. Mr. Jankovitz proposed to add the limitations of claim 4 at the end of claim 1 as seen in the attached draft. Also, delete the phrase "or in an existing man-made structure" from step (a) of claim 1 lines 4-5. Mr. Jankovitz also proposed to add a new claim 12 which would state the surface in claim 1 being a road surface.

With these amendments, applicant overcomes the rejection made on a non-final action mailed on December 13, 2004. Examiner stated at the end of the office action mailed on December 13, 2004 that the action was FINAL. However, it was an error on the examiner's side and this action is considered as a non-final.

Mr. Jankovitz will file a formal response to the non-final action mailed on December 13, 2004 and the examiner will conduct a further search.



LEO BOUDREAU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER

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Commerce Corporate Center
5100 Tilghman Street
Allentown, PA 18104
Phone: 610-530-8100
Fax: 610-530-8200**FACSIMILE COVER SHEET**DATE: January 3, 2005OUR REF.: ITDE-PSSD136US

TIME: _____

YOUR REF.: Appln. No. 09/828,010

TO:	Examiner Patel
COMPANY:	USPTO
FROM:	Jack J. Jankovitz
FAX TELEPHONE:	703-746-9407
OFFICE TELEPHONE:	
TITLE OF DOCUMENT:	Draft Claims for Discussion

Total Number of Pages: 3 (including this form)**COMMENTS**Examiner Patel:Enclosed is amended claims 4 and 6. I will propose to combine claims 1 and 4 and cancel claim 4.active vs. passive**CONFIDENTIAL AND PRIVILEGED ATTORNEY/CLIENT INFORMATION**

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DRAFT FOR DISCUSSION

ITDE-PSSD136US

Appln. No.: 09/828,010
 Amendment Dated
 Reply to Office Action of December 13, 2004

Amendments to the Claims: This listing of claims will replace all prior versions, and listings, of claims in the application

Listing of Claims:

1. (Previously Presented) A method for capturing at least one image of an existing man-made structure and for detecting the presence of failure(s) in such existing man-made structures comprising:

(a) separately providing a detectable material on a surface ~~on an existing man-made structure~~ so that portions of the detectable material will be present in the failure(s) of the existing man-made structure that accentuates the failure, wherein the detectable material is separately applied, after forming the surface or the man-made structure;

(b) providing an image sensor which captures at least one image of the existing man-made structure and identifies failure(s) due to the existence of the detectable material in the failure(s) to provide at least one digital image; and

(c) processing the captured digital image(s) to provide a visual image of the existing man-made structure to determine the presence of failure(s) in the existing man-made structure, wherein #4

2. (Canceled)

3. (Original) The method of claim 1 wherein the digital image processing includes comparing previously captured digital images with newly captured digital image(s) to determine variations in the captured digital image(s) at predetermined coordinates which indicate a potential failure in the existing man-made structure.

4. (Currently Amended) The method according to claim 1 wherein the digital image(s) is captured by a capture device which is located in a ~~fixed structure position above a ground location or in a moving structure including~~ an aircraft or satellite.

5. (Original) The method of claim 3 wherein the image processing includes storing in memory a representation of different failures to be detected and comparing the captured digital image with the failures to determine the presence of a failure, and location of such failure.

6. (Currently Amended) The method of claim 1 wherein the detectable material interacts with incident radiation emitted from an aircraft or satellite to cause radiation from the failure in the existing man-made structure to be detected by the image sensor.

7. (Original) The method of claim 6 wherein the detectable material includes encapsulated dyes or phosphors.

8. (Original) The method of claim 6 wherein the detectable material is included in a liquid solution or solid solution which is distributed on the failure in the existing man-made structure.

9. (Original) The method of claim 6 wherein the detectable material is a lanthanide, and wherein the lanthanide is combined with halogen elements to form a detectable halide.

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Amendment Dated
Reply to Office Action of December 13, 2004

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10. (Previously Presented) The method in claim 6 wherein the detectable material includes cholesteric characteristics that change their orientation based on thermal equilibrium with the surroundings and exhibit a different color that can be detected by the image sensor.

11. (Previously Presented) The method of claim 1 wherein step (a) includes (i) forming the surface or the man-made structure at a fixed location, and (ii) applying the detectable material, after forming the surface or the man-made structure at the fixed location.